

Notice of Allowability

Application No.

09/733,685

Examiner

Anne R. Kubelik

Applicant(s)

CADE ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 July 2003.
2. ☒ The allowed claim(s) is/are 2-3, 6-13, 21-28, renumbered claims 1-18, respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gregory Warren on 10 October 2003.

IN THE TITLE:

ARABIDOPSIS GENE [GENES] ENCODING A PROTEIN [PROTEINS] INVOLVED
IN THE REGULATION OF SAR GENE EXPRESSION IN PLANTS.

IN THE ABSTRACT:

-- The *Arabidopsis* NI16 gene was isolated in a yeast 2-hybrid screen via its interaction with the NIM1 protein. The NI16 gene encodes a protein involved in the regulation of SAR gene expression in plants. NI16 is strongly induced in NIM1-overexpressing plants treated with benzo(1,2,3)thiadiazole-7-carbothioic acid S-methyl ester (BTH). [Homologues of the NI16 gene from potato and tomato are also provided.] The NIMI interactor[s] can be expressed in transgenic plants, either alone or in combination with the NIMI protein, to increase expression of SAR genes such as PR-1. [The nucleic acid sequence of the *Arabidopsis* NI16 promoter is also disclosed herein.]

IN THE CLAIMS:

Claim 2 (amended) An isolated nucleic acid molecule [comprising a nucleotide sequence that encodes] encoding SEQ ID NO:2.

Claim 10 (amended). A transgenic plant comprising the [transgenic plant cell] chimeric gene of claim [9] 6.

In claims 11 and 26, line 2, the colon after “of” was deleted.

Claim 12 (amended). Transgenic seed from [a] the transgenic plant according to claim 10, wherein said transgenic seed comprise the chimeric gene [comprises a nucleic acid molecule that encodes SEQ ID NO:2].

Claim 25 (amended). A transgenic plant comprising the [transgenic plant cell] chimeric gene of claim [25] 21.

Claim 27 (amended). Transgenic seed from [a] the transgenic plant according to claim 25, wherein said transgenic seed comprise the chimeric gene [comprises a nucleic acid molecule comprising nucleotides 68-433 of SEQ ID NO:1.].

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne R. Kubelik, whose telephone number is (703) 308-5059. The examiner can normally be reached Monday through Friday, 8:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 308-0198.

Anne R. Kubelik, Ph.D.
October 10, 2003

A handwritten signature in black ink, appearing to read "Amy Nelson". The signature is fluid and cursive, with the first name "Amy" and last name "Nelson" clearly distinguishable.

AMY J. NELSON, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600